



State of California  
Franchise Tax Board

## Penalty Reference Chart

Please use this chart for reference purposes only. We list penalty codes by Revenue and Taxation Code (R&TC) sections and reference comparable Internal Revenue Code (IRC) sections. These penalties reflect the law as enacted on April 12, 2010, for taxable years beginning on or after January 1, 2010.

| Penalty Name   | R&TC Section | IRC Section | Penalty Reason  | Computation  |
|--|--------------|-------------|---|--|
| Limited Liability Company (LLC) Fee Estimate Penalty | 17942(c)(2)  | None        | Underpayment of estimated fee.  | 10% of the underpayment.   |
|  |              |             | <b>Exceptions</b> - Safe harbor--100% of prior year.  |  |
| Tax on Joint Return Exceeds Tax on Separate Returns  | 18530        | 6013(b)(5)  | Tax on a joint return exceeds tax shown on separate returns, due to negligence or intentional disregard of rules, or fraud. In lieu of penalties provided by Section 19164(a) & (b).<br><ul style="list-style-type: none"> <li>20% of total amount of excess if attributable to negligence/intentional disregard of rules.</li> </ul> | <ul style="list-style-type: none"> <li>75% of excess if attributable to fraud.</li> </ul>  |
|  |              |             | <b>Exceptions</b> - None.   |  |
| Information Return From Owner of Real Property       | 18642        | 6045        | Owners and transferors failing to file information return relating to interest in real property by the due date.  | Penalty under 19183 applies. If information return not filed within 60 days of due date, the deduction of certain property-related expenses are disallowed.  |
|  |              |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.   |  |
| Withholding Penalties                                | 18668        | 3403        | Any person required to withhold tax, but fails to do so. Includes withholding from the sale of real property.   | <ul style="list-style-type: none"> <li>The greater of the actual amount withheld or taxpayer's liability, not to exceed required withholding amount.</li> <li>Alternatives for real estate withholding: <ul style="list-style-type: none"> <li>\$500 or</li> <li>10% of the amount required to be withheld, whichever is greater.</li> </ul> </li> </ul> |
|  |              |             | <b>Exceptions</b> - Reasonable cause.   |  |
| Withholding Penalties                                | 18669        | None        | Successor on a sale, transfer, or disposition of a business for failing to pay required amounts or failing to withhold or to pay withheld amounts.  | 10% of amount not paid or personal liability for amounts not withheld or withheld amounts not paid.  |
|  |              |             | <b>Exceptions</b> - None.   |  |

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| Penalty Name   | R&TC Section | IRC Section | Penalty Reason   | Computation  |
|--|--------------|-------------|--|--|
| Electronic Funds Transfer (EFT) Penalty  | 19011        | 6302        | Any person required to remit payment by EFT, but who makes payment by other means.   | 10% of the amount paid by non-EFT.   |
|  |              |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.  |  |
| Electronic Payment Requirements for Individuals                                | 19011.5      | None        | Failure by individuals, whose tax liability is greater than \$80,000 or who make an estimated tax or extension payment that exceeds \$20,000, to remit their tax payments electronically.  | 1% of the amount paid.   |
|  |              |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.  |  |
| Failure to File a Return/Late Filing Penalty                                   | 19131        | 6651        | Any taxpayer who is required to file a return, but fails to do so by the due date.   | <ul style="list-style-type: none"> <li>5% of the tax due, after allowing for timely payments, for every month that the return is late, up to a maximum of 25%. <ul style="list-style-type: none"> <li>For fraud, substitute 15% and 75% for 5% and 25%, respectively.</li> </ul> </li> <li>For individuals and fiduciaries, minimum penalty is the lesser of: <ul style="list-style-type: none"> <li>Tax year 2009 and prior: \$100 or 100% of the tax required to be shown on the return.</li> <li>Tax year 2010 and after: \$135 or 100% of the tax required to be shown on the return.</li> </ul> </li> </ul> |
|  |              |             |  | <b>Exceptions</b> - Reasonable cause and not willful neglect.  |
| Failure to Pay Tax/Late Payment Penalty  | 19132        | 6651        | Taxpayer failing to pay tax by the due date. This penalty is not imposed if, for the same tax year, the sum of Sections 19131 & 19133 penalties are equal to or greater than this penalty. | 5% of the total tax unpaid plus 1/2 of 1% for every month the payment of tax was late up to 40 months.   |
|  |              |             |  | <b>Exceptions</b> - Reasonable cause and not willful neglect.  |
| Failure to Provide Information Requested/ Failure to File a Return Upon Demand | 19133        | None        | Any taxpayer for failing to provide requested information, or failing to file a return after notice and demand.  | 25% of total tax liability without regard to any payments or credits.  |
|  |              |             |  | <b>Exceptions</b> - Reasonable cause and not willful neglect.  |

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| Penalty Name  | R&TC Section               | IRC Section | Penalty Reason  | Computation   |
|---|----------------------------|-------------|---|---|
| Penalty for Failure to Make a Small Business Stock Report         | 19133.5                    | 6652        | Taxpayer for failing to make a small business report.   | <ul style="list-style-type: none"> <li>\$50 for each report.</li> <li>\$100 per report if the failure is due to negligence or intentional disregard.</li> </ul>   |
|   |                            |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.   |   |
| Dishonored Payments   | 19134                      | 6657        | Any taxpayer who makes a payment by check that is dishonored. Includes payments made by credit card or EFT.   | <ul style="list-style-type: none"> <li>For payments received prior to January 1, 2011, the penalty will be: <ul style="list-style-type: none"> <li>An amount equal to 2% of the amount of the dishonored payment, or</li> <li>If the amount of the check is less than \$750, \$15 or the amount of the check, whichever is less.</li> </ul> </li> <li>For payments received after January 1, 2011, the penalty will be: <ul style="list-style-type: none"> <li>An amount equal to 2% of the amount of the dishonored payment, or</li> <li>If the amount of the check is less than \$1,250, \$25 or the amount of the check, whichever is less.</li> </ul> </li> </ul> |
|   |                            |             | <b>Exceptions</b> - Reasonable cause and good faith.  |   |
| Unqualified or Suspended Corporation Doing Business in this State | 19135                      | None        | Any foreign corporation which fails to qualify to do business, or whose powers have been forfeited, or any domestic corporation which has been suspended, and is doing business in this state.  | \$2,000 per year.   |
|   |                            |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.   |   |
| Underpayment of Estimated Tax (Addition to Tax)                   | 19136 et seq., 19142-19151 | 6654        | Any taxpayer who fails to pay estimated tax in the required installments.   | An amount determined by applying the underpayment rate specified in Section 19521 to the amount of the underpayment for the period of the underpayment.   |
|   |                            |             | <b>Exceptions</b> - (1) Safe harbors under 6654 as modified. (2) Underpayment created or increased by any provision of law that is chaptered during and operative for the taxable year of the underpayment (3) underpayment was created or increased by the disallowance of a credit under Section 17053.80(g) or 23623(g). |   |

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| Penalty Name  | R&TC Section | IRC Section | Penalty Reason   | Computation   |
|---|--------------|-------------|--|---|
| Large Corporate Understatement of Tax   | 19138        | None        | When a corporation has an understatement of tax in excess of \$1 million for any taxable year, where understatement means the difference between the correct amount of tax and the tax shown on the original return. | 20% of the understatement of tax.   |
|   |              |             | <b>Exceptions</b> - Understatement is attributable to (1) a change in law after earlier of date return is filed or extended due date of return or (2) reasonable reliance on legal ruling by the Chief Counsel.      |   |
| Suspension of Corporate Powers Penalty; Corporation Officer Statement Penalty | 19141        | None        | A suspended corporation, upon certification by the Secretary of State. Includes penalty for taxpayer's failure to provide a corporation officer's statement.   | \$250 upon certification by the Secretary of State under Corporations Code Section 2204 or \$50 upon certification by the Secretary of State under Corporations Code Section 8810.  |
|   |              |             | <b>Exceptions</b> - None.  |   |
| Information With Respect to Certain Foreign Corporations                      | 19141.2      | 6038        | Failure to furnish certain information about certain foreign corporations.   | <ul style="list-style-type: none"> <li>\$1,000 for each annual accounting period.</li> <li>Additional penalty where taxpayer continues, in excess of 90 days, to fail to provide information after we mail notice: \$1,000 for each 30-day period up to a maximum of \$24,000.</li> </ul>   |
|   |              |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.  |   |
| Failure to Furnish Information About Foreign-Owned Corporations               | 19141.5      | 6038A       | Failure to furnish information or to maintain required records about foreign-owned corporations, under IRC Section 6038A.  | <ul style="list-style-type: none"> <li>\$10,000 for each taxable year for which the taxpayer fails to provide the required information or fails to maintain the required records.</li> <li>Additional penalty of \$10,000 for each 30-day period, where taxpayer continues, in excess of 90 days after notification, to fail to provide information.</li> </ul> |
|   |              |             | <b>Exceptions</b> - Reasonable cause.  |   |

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| Penalty Name  | R&TC Section | IRC Section | Penalty Reason   | Computation  |
|---|--------------|-------------|--|--|
| <b>Failure to Furnish Information About Foreign-Owned Corporations -</b><br>Notice of Certain Transfers to Foreign Persons                            | 19141.5      | 6038B       | Failure to furnish information records about transfers or distributions to foreign-owned corporations, under IRC Section 6038B.  | 10% of fair market value at time of exchange, not to exceed \$100,000 unless failure due to intentional disregard.   |
|   |              |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.  |  |
| <b>Failure to Furnish Information About Foreign-Owned Corporations -</b><br>Information With Respect to Foreign Corporations Engaged in U.S. Business | 19141.5      | 6038C       | A foreign corporation engaged in a trade or business within the U.S. at any time during the year does not furnish or maintain required information.                      | <ul style="list-style-type: none"> <li>\$10,000 for each taxable year for which the taxpayer fails to provide the required information or fails to maintain the required records.</li> <li>Additional penalty of \$10,000 for each 30-day period, where taxpayer continues, in excess of 90 days after notification, to fail to provide information.</li> </ul>                              |
|   |              |             | <b>Exceptions</b> - Reasonable cause.  |  |
| <b>Failure to Retain Unitary Records Penalty</b>  | 19141.6      | None        | Any taxpayer engaged in a unitary business that fails to maintain records relating to unitary combination, apportionment and allocation, and application of federal law. | <ul style="list-style-type: none"> <li>\$10,000 for each year that the taxpayer fails to maintain or causes another to fail to maintain the required records.</li> <li>If the failure continues beyond 90 days of notice from us, an additional penalty of \$10,000 for each 30-day period shall be imposed up to a maximum of \$50,000 if the taxpayer's conduct is not willful.</li> </ul> |
|   |              |             | <b>Exceptions</b> - None.  |  |

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| Penalty Name  | R&TC Section | IRC Section            | Penalty Reason   | Computation  |
|---|--------------|------------------------|--|--|
| <b>Accuracy Related Penalty</b>   | 19164        | 6662                   | Any underpayment of tax required to be shown on a return, attributable primarily to negligence or disregard of rules and regulations or a substantial understatement of income tax.  | <ul style="list-style-type: none"> <li>20% of the underpayment of tax.</li> <li>40% unless certain exceptions apply for amnesty eligible years, which are tax years prior to January 1, 2003.</li> </ul>   |
|   |              |                        | <b>Exceptions</b> - The defenses to an accuracy related penalty include (1) substantial authority, (2) adequate disclosure and reasonable basis or (3) reasonable cause and good faith, depending on the grounds for imposing the penalty. In addition, see underlying regulation regarding unitary and business and nonbusiness income determinations.  |  |
| <b>Accuracy Related Penalty</b><br>– Substantial Valuation Misstatement                           | 19164        | 6662(e)(1) and 6662(c) | <p>A substantial valuation misstatement exists when the value (or adjusted basis) of any property claimed on a return is 150% or more of the correct amount.</p> <ul style="list-style-type: none"> <li>Transactional Penalty – The price reported for any property or services claimed on a return is 200% or more (or 50% or less) of the correct figure.</li> <li>Net Adjustment Penalty – When the transfer price of any property or services increases the taxable income for the taxable year by the lesser of \$5 million or 10% of the taxpayer's gross receipts.</li> </ul> | <ul style="list-style-type: none"> <li>20% of the portion of the underpayment of tax attributable to the misstatement. <ul style="list-style-type: none"> <li>Applies to returns filed on or after January 1, 2010.</li> </ul> </li> <li>No penalty imposed unless the portion of the underpayment exceeds \$5,000 (\$10,000 for corporations other than S corporations or personal holding companies).</li> </ul> |
|   |              |                        | <b>Exceptions</b> - Reasonable cause and good faith. (See Treasury Regulation. Section 1.6664-4 and 1.6662-6 for special rules.) There is no disclosure exception to this penalty. Treasury Regulation Section 1.6662-5(a). When there is an underpayment due to overstated charitable deduction property, there are special rules for reasonable cause under IRC Section 6664(c) for returns filed after January 1, 2010.   |  |
| <b>Accuracy Related Penalty</b><br>- Increase in Penalty in Case of Gross Valuation Misstatements | 19164        | 6662(h)                | <p>A gross valuation misstatement exists if:</p> <ul style="list-style-type: none"> <li>The value (or adjusted basis) of any property on a return is 200% or more of the correct amount, or</li> <li>The price for any property or service claimed on a return is 400% or more (or 25% or less) of the correct price, or</li> <li>The net Section 482 adjustment exceeds the lesser of \$20 million or 20% of the taxpayer's gross receipts.</li> </ul>  | <p>40% of the portion of the underpayment of tax attributable to the misstatement.</p> <p>Applies to returns filed on or after January 1, 2010.</p> <p>No penalty imposed unless the amount of the underpayment exceeds \$5000 (\$10,000 for corporations other than S corporations or personal holding companies).</p>  |
|   |              |                        | <b>Exceptions</b> - Reasonable cause and good faith. (See Treasury Regulation Section 1.6664-4 and 1.6662-6(d).) There is no disclosure exception to this penalty. Treasury Regulation Section 1.6662-5(a). When there is an underpayment due to overstated charitable deduction property, there are special rules for reasonable cause under IRC Section 6664(c) for returns filed after January 1, 2010.   |  |

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| Penalty Name   | R&TC Section | IRC Section | Penalty Reason  | Computation  |
|--|--------------|-------------|---|--|
| Fraud Penalty  | 19164        | 6663        | When there is clear and convincing evidence to prove that some part of the underpayment of tax was due to civil fraud. Such evidence must show the taxpayer's intent to evade tax which the taxpayer believed to be owing.  | 75% of the underpayment attributable to civil fraud.   |
|  |              |             | <b>Exceptions</b> - Reasonable cause and good faith.  |  |
| Reportable Transaction Accuracy Related Penalty - Disclosed Reportable Transaction   | 19164.5      | 6662A       | Any disclosed reportable transaction understatement for tax years beginning on or after January 1, 2005.  | 20% of the understatement attributed to the reportable or listed transaction if the transaction is adequately disclosed on the return.     |
|  |              |             | <b>Exceptions</b> - Chief Counsel relief for reportable transactions other than listed transactions. The standards in R&TC Section 19772 apply.   |  |
| Reportable Transaction Accuracy Related Penalty - Undisclosed Reportable Transaction | 19164.5      | 6662A(c)    | Any undisclosed reportable transaction understatement for tax years beginning on or after January 1, 2005.  | 30% of the understatement attributed to the reportable or listed transaction if the transaction is not adequately disclosed on the return. |
|  |              |             | <b>Exceptions</b> - Chief Counsel relief for reportable transactions other than listed transactions. The standards in R&TC Section 19772 apply.   |  |
| Preparer Penalty   | 19166(a)     | 6694(a)(1)  | When a preparer completes a return or claim for refund that results in the taxpayer's understatement based on an unreasonable position and the preparer knew or reasonably should have known of the unreasonable position.  | \$250 with respect to each return or claim.<br><br>Applies to returns prepared after January 1, 2010.                                      |
|  |              |             | <b>Exceptions</b> - The preparer can avoid the penalty (1) if the position is adequately disclosed and has a reasonable basis; (2) if the position is not disclosed and is not a tax shelter and there is substantial authority for the position; or (3) for a tax shelter position defined in IRC Section 6662(d) or a reportable transaction under IRC Section 6011, if the preparer reasonably believes that the position is more-likely-than-not correct. Also reasonable cause and good faith. If preparer pays at least 15% of the penalty within 30 days of the bill and files a claim for refund, the preparer may file an action in court within 30 days of the claim denial or deemed denial. |  |

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| Penalty Name  | R&TC Section | IRC Section | Penalty Reason   | Computation  |
|---|--------------|-------------|--|--|
| <b>Preparer Penalty - Reportable Transactions, Listed Transactions or Gross Misstatements</b> | 19166(b)(1)  | None        | When a preparer completes a return or claim for refund that results in the taxpayer's understatement based on an undisclosed reportable transaction, a listed transaction, or a gross misstatement.  | \$1,000 or 50% of the income derived (or to be derived) with respect to each return or claim.<br><br>Applies to returns prepared after January 1, 2010.                |
|   |              |             | <b>Exceptions</b> - Standard to avoid the penalty is more-likely-than-not. If preparer pays at least 15% of the penalty within 30 days of the bill and files a claim for refund, the preparer may file an action in court within 30 days of the claim denial or deemed denial.   |  |
| <b>Understatement of a Taxpayer's Liability by Tax Preparer - Willful or Reckless Conduct</b> | 19166(c)     | 6694(b)     | If the understatement of the taxpayer's tax is due to the preparer's willful attempt to understate the liability or any reckless or intentional disregard of rules or regulations.   | The greater of \$5,000 or 50% of the income derived (or to be derived) with respect to each return or claim.<br><br>Applies to returns prepared after January 1, 2010. |
|   |              |             | <b>Exceptions</b> - A preparer is not considered to have recklessly or intentionally disregarded a rule or regulation if the position has a reasonable basis and is adequately disclosed. If a regulation is at issue, there must be a good faith challenge. If the position is contrary to a revenue ruling or notice, the substantial authority standard applies. The same rules of paying 15% and filing a claim and suit in court apply. |  |
| <b>Additional Penalties - Failure to Furnish Copy to Taxpayer</b>                             | 19167(a)     | 6695(a)     | Failure to furnish a completed copy of return or claim.  | \$50 per failure, not to exceed \$25,000 during any calendar year.   |
|   |              |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.  |  |
| <b>Additional Penalties - Failure to Furnish Identifying Number</b>                           | 19167(b)     | 6695(c)     | Failure to include on a return or claim the identifying number of the preparer, employer or both.  | \$50 per failure, not to exceed \$25,000 during any calendar year.   |
|   |              |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.  |  |
| <b>Additional Penalties - Failure to Retain Copy or List</b>                                  | 19167(c)     | 6695(d)     | Failure to retain a completed copy of a return or claim for 3 years or a list with the taxpayer's name and identifying number and make the return or list available for inspection by FTB.   | \$50 per failure, not to exceed \$25,000 during any calendar year.   |
|   |              |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.  |  |



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| Penalty Name  | R&TC Section        | IRC Section | Penalty Reason  | Computation  |
|---|---------------------|-------------|---|--|
| <b>Additional Penalties -</b><br>Failure to Register as a Tax Preparer with California Tax Education Council (CTEC) | 19167(d)(1) and (2) | None        | Failure to register with the CTEC.  | \$2,500 for first failure to register. \$5,000 for other than first failure.   |
|   |                     |             | <b>Exceptions</b> - Reasonable cause and good faith. The penalty may be waived if the preparer provides proof of registration to us within 90 days of mail date of notice. Certain persons are exempt from the requirement to register, such as licensed certified public accountants (CPA) and licensed attorneys. |  |
| <b>Negotiation of Taxpayer's Check by Tax Preparer</b>  | 19169, 20645.7      | 6695(f)     | If the tax preparer endorses or otherwise negotiates a check for the refund of tax that is issued to a taxpayer, if the person was the preparer of the return or claim that gave rise to the refund check.  | \$250 for each endorsement or negotiation of a check.  |
|   |                     |             | <b>Exceptions</b> - The preparer will not be considered to have endorsed a check solely as a result of putting the taxpayer's name to a check for the purpose of depositing the check into the taxpayer's account, if authorized by the taxpayer.   |  |
| <b>Failure to File Electronically</b>   | 19170               | None        | If a preparer that is subject to R&TC Section 18621.9 fails to file returns electronically.   | \$50 for each failure.   |
|   |                     |             | <b>Exceptions</b> - Reasonable cause and not willful neglect. Reasonable cause can be established by the taxpayer electing not to file electronically.  |  |
| <b>Failure of Partnership to Comply with Filing Requirements</b>  | 19172               | 6698        | If a partnership: <ul style="list-style-type: none"> <li>Fails to file a timely return, including any extensions, or</li> <li>Files a return that fails to include information required under R&amp;TC Section 18633 or 18633.5.</li> </ul>   | \$10 multiplied by the number of persons who were partners during any part of that taxable year, for each month during which that failure continues, not to exceed 5 months.<br><br>For tax returns filed on or after January 1, 2011, the penalty is computed as \$18 multiplied by the number of persons who were partners during any part of that taxable year for each month during which that failure continues, not to exceed 12 months. |
|   |                     |             | <b>Exceptions</b> - Reasonable cause.   |  |

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| Penalty Name   | R&TC Section | IRC Section | Penalty Reason   | Computation  |
|--|--------------|-------------|--|--|
| Failure of S Corporation to Comply with Filing Requirements                            | 19172.5      | N/A         | <p>If an S Corporation:</p> <ul style="list-style-type: none"> <li>Fails to file a timely return, including extensions, or</li> <li>Files a return that fails to include information required under R&amp;TC Section 18601.</li> </ul>               | For tax returns filed on or after January 1, 2011, the penalty is computed as \$18 multiplied by the number of persons who were shareholders during any part of that taxable year for each month during which that failure continues, not to exceed 12 months.                   |
|  |              |             | <b>Exceptions</b> - Reasonable cause.  |  |
| Failure to Comply With Request to Provide Lists - Reportable Transactions              | 19173(a)     | 6708        | Failing to provide lists of advisees with respect to reportable transactions (other than a listed transaction) to FTB within 20 business days after FTB requests the list.   | \$10,000 for each day of such failure after the 20th business day.   |
|  |              |             | <b>Exceptions</b> - Chief Counsel relief for reportable transactions other than listed transactions.   |  |
| Failure to Comply With Request - Material Advisors With Respect to Listed Transactions | 19173(b)     | 6708        | Material advisors who fail to meet the requirements of R&TC Section 18648 with respect to a listed transaction.  | \$100,000 or 50% of gross income that the material advisor derived from that activity whichever is greater.  |
|  |              |             | <b>Exceptions</b> - The penalty does not apply if it is shown that the additional information required was not identified in our notice prior to the date the transaction/shelter was entered into. No Chief Counsel review for listed transactions. |  |
| Failure to Report Personal Service Remuneration  | 19175        | None        | Any person or entity who fails to report amounts paid as remuneration for personal services may be liable for a penalty.   | <ul style="list-style-type: none"> <li>The maximum personal income tax rate multiplied by the unreported amounts paid as remuneration for personal services.</li> <li>In addition, at our discretion, we may disallow the deduction for amounts paid as remuneration.</li> </ul> |
|  |              |             | <b>Exceptions</b> - None.  |  |
| Statement That Results in Under-Withholding  | 19176        | 6682        | Statement that results in a decrease in amounts deducted and withheld, if there was no reasonable basis for the statement.   | \$500 for the statement.   |
|  |              |             | <b>Exceptions</b> - Penalty may be waived if the tax paid by the individual for the taxable year is equal to or less than the sum of both certain credits allowed and payments of estimated tax.   |  |

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|---|------------------|-------------|--|---|
| Promotion of Abusive Tax Shelter                                      | 19177            | 6700        | Any person who engages in the organization of, or sale of any interest in, a partnership or other entity, an investment plan or arrangement, or any other plan or arrangement, if the person makes, furnishes, or causes another person to make or furnish: <ul style="list-style-type: none"> <li>A false or fraudulent tax benefits statement as to a material matter; or</li> <li>A gross valuation overstatement as to a material matter.</li> </ul> | <ul style="list-style-type: none"> <li>\$1,000 or 100% of the gross income derived (or to be derived) by the person from the activity whichever is less.</li> <li>If the activity on which the penalty is imposed involves a false or fraudulent statement as to any matter pertaining to the tax shelter plan or arrangement, the penalty is 50% of the gross income the promoter derived (or was to derive) from promoting the activity.</li> </ul> |
|   |                  |             | <b>Exceptions</b> - If a penalty is imposed with respect to a gross valuation overstatement, the penalty may be waived on a showing that there was a reasonable basis for the valuation and the valuation was made in good faith.  |   |
| Aiding and Abetting Understatement of Tax Liability- Noncorporations  | 19178            | 6701(b)(1)  | Aiding and abetting understatement of tax.   | <ul style="list-style-type: none"> <li>\$1,000, \$10,000 if the tax liability relates to a corporation.</li> <li>Only one penalty per person per period.</li> </ul>   |
|   |                  |             | <b>Exceptions</b> - None.  |   |
| Filing Frivolous Return   | 19179(a) and (b) | 6702(a)     | Filing a frivolous return.   | For all returns filed on or after January 1, 2011, the amount of the frivolous return penalty is \$5,000.   |
|   |                  |             | <b>Exceptions</b> - Chief Counsel relief.  |   |
| Frivolous Submissions   | 19179(d)         | 6702(b)     | Filing a specified frivolous submission.   | \$5,000.  |
|   |                  |             | <b>Exceptions</b> - Chief Counsel relief.  |   |
| Failure to Comply With Original Issue Discount Reporting Requirements | 19181            | 6706        | Failing to comply with original issue discount reporting requirements.   | <ul style="list-style-type: none"> <li>\$50 for each failure to show information on debt instrument.</li> <li>1% of the aggregate issue price of each issue, up to a maximum of \$50,000 for each issue for failure to furnish information to taxing agency.</li> </ul>   |
|   |                  |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.  |   |

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| Penalty Name  | R&TC Section | IRC Section     | Penalty Reason  | Computation  |
|---|--------------|-----------------|---|--|
| Failure to Furnish Information Regarding Reportable Transaction | 19182        | 6707            | Person who fails to file a return with respect to any reportable transaction before the date prescribed or who files false or incomplete information with respect to such transactions.   | \$50,000; for listed transactions, equal to the greater of: \$200,000 or 50% (or 75% if failure is intentional) of the gross income derived by such a person.  |
|   |              |                 | <b>Exceptions</b> - Penalty will not apply if it is shown that the additional required information was not identified in our notice issued prior to the date of the transaction. Chief Counsel relief for reportable transactions other than listed transactions. |  |
| Failure to Disclose Quid Pro Quo Contributions                  | 19182.5      | 6714            | For each contribution where the organization fails to make the required disclosure.   | \$10 for each contribution, but the total penalty with respect to a particular fundraising event or mailing shall not exceed \$5,000.  |
|   |              |                 | <b>Exceptions</b> - Reasonable cause. No penalty imposed if requirements under IRC Section 6115 are met.  |  |
| Failure to File Correct Information Return                      | 19183        | 6652, 6721-6724 | Failing to file correct information returns.  | <ul style="list-style-type: none"> <li>\$50 for failure to file correct information returns, with respect to which such a failure occurs.</li> <li>Shall not exceed \$250,000 during any calendar year; \$100,000 for persons with gross receipts of not more than \$5 million.</li> <li>Higher penalties (without reduction for correction) apply in the case of intentional disregard, depending on type of information return.</li> </ul> |
|   |              |                 | <b>Exceptions</b> - De minimis failure exception. Reasonable cause and not willful neglect.   |  |
| Failure to File Correct Information Return                      | 19183        | 6721(b)(1)      | Reduction in failure to file correct information return penalty when corrected within 30 days.  | <ul style="list-style-type: none"> <li>\$15 for failure to file correct information returns, with respect to which such a failure occurs.</li> <li>Shall not exceed \$75,000 during any calendar year; \$25,000 for persons with gross receipts of not more than \$5 million.</li> </ul>   |
|   |              |                 | <b>Exceptions</b> - Reasonable cause and not willful neglect.   |  |
| Failure to File Correct Information Return                      | 19183        | 6721(b)(2)      | Reduction in failure to file correct information return penalty when corrected on or before August 1.   | <ul style="list-style-type: none"> <li>\$30 for failure to file correct information returns, with respect to which such a failure occurs.</li> <li>Shall not exceed \$150,000 during any calendar year; \$50,000 for persons with gross receipts of not more than \$5 million.</li> </ul>  |
|   |              |                 | <b>Exceptions</b> - Reasonable cause and not willful neglect.   |  |

Franchise Tax Board  
**Penalty Reference Chart**

| Penalty Name   | R&TC Section | IRC Section | Penalty Reason  | Computation  |
|--|--------------|-------------|---|--|
| <b>Failure to File Correct Information -</b><br>Failure to Furnish Correct Payee Statements  | 19183(b)(1)  | 6722(a)     | Failure to furnish correct payee statements.  | <ul style="list-style-type: none"> <li>\$50 for each statement, up to a maximum of \$100,000 for each calendar year.</li> <li>\$100, or, if greater, 5% or 10% of the aggregate amount of the items required to be reported correctly, depending on the type of return required, with respect to each such failure for intentional disregard.</li> </ul> <p>The \$100,000 limitation in IRC Section 6722(a) shall not apply.</p> |
|  |              |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.   |  |
| <b>Failure to File Correct Information -</b><br>Failure to Comply With Other Information Reporting Requirements  | 19183(c)     | 6723        | Failure to comply with other information reporting requirements.  | \$50 for each such failure, up to a maximum of \$100,000 for each calendar year.   |
|  |              |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.   |  |
| <b>Failure to File Correct Information -</b><br>Failure to Provide Written Explanation to Recipients of Distributions Eligible for Rollover Treatment. | 19183(e)     | None        | Failure to provide written explanation to recipients of distributions eligible for rollover treatment pursuant to IRC Section 402(f). | \$10 for each failure, up to a maximum of \$5,000 for each calendar year after notice and demand.  |
|  |              |             | <b>Exceptions</b> - Reasonable cause and not willful neglect.   |  |

Franchise Tax Board  
**Penalty Reference Chart**

| <b>Penalty Name</b>   | <b>R&amp;TC Section</b> | <b>IRC Section</b> | <b>Penalty Reason</b>  | <b>Computation</b>             |
|---|-------------------------|--------------------|--|--------------------------------|
| <b>Failure to File Report Regarding Tax Deferred Savings Accounts</b>   | 19184                   | 6693               | Failure to file report regarding tax deferred savings accounts.                        | \$50 for each failure.         |
|   |                         |                    | <b>Exceptions</b> - Reasonable cause.  |                                |
| <b>Failure to File Report Regarding Tax Deferred Savings Accounts - Overstatement as to Amount Designated Nondeductible Contributions</b>                                       | 19184(b)(1)(B)          | 6693               | Overstating the amount designated as nondeductible contributions for any taxable year. | \$100 for each overstatement.  |
|   |                         |                    | <b>Exceptions</b> - Reasonable cause.  |                                |
| <b>Failure to File Report Regarding Tax Deferred Savings Accounts - Failure to File A Form Required for Nondeductible Contributions to Individual Retirement Accounts (IRA)</b> | 19184(b)(2)             | 6693               | Failure to file a form required for nondeductible contributions to IRAs.               | \$50 for each failure.         |
|   |                         |                    | <b>Exceptions</b> - Reasonable cause.  |                                |
| <b>Failure to Provide Information Concerning State Licenses Penalty</b>   | 19528                   | None               | Licensees failing to provide identification numbers upon demand.                       | \$100 after notice and demand. |
|   |                         |                    | <b>Exceptions</b> - None.  |                                |

Franchise Tax Board  
**Penalty Reference Chart**

| <b>Penalty Name</b>  | <b>R&amp;TC Section</b> | <b>IRC Section</b> | <b>Penalty Reason</b>   | <b>Computation</b>   |
|--|-------------------------|--------------------|---|--|
| <b>Frivolous Proceedings; Failure to Exhaust Administrative Remedies</b>     | 19714                   | 6673               | Taxpayer's action at the State Board of Equalization (BOE) or in court that was instituted or maintained by the taxpayer for delay, or that the position was frivolous or groundless, or that administrative remedies were not pursued. | Not more than \$5,000.   |
|  |                         |                    | <b>Exceptions</b> - None.   |  |
| <b>Business Conducted After Suspension or Forfeiture of Corporate Rights</b> | 19719                   | None               | Anyone who attempts or purports to exercise the powers, rights, and privileges of a corporation that has been suspended or forfeited.   | \$250 and not exceeding \$1,000.   |
|  |                         |                    | <b>Exceptions</b> - Not applicable to any insurer or insurer's counsel.   |  |
| <b>Failure to Include Information on Reportable Transactions</b>             | 19772                   | 6707A              | Failure to include reportable transactions information with a return.   | \$15,000, \$30,000 if listed transaction.  |
|  |                         |                    | <b>Exceptions</b> - Chief Counsel relief only for reportable transactions other than listed transactions.   |  |
| <b>Noneconomic Substance Transaction Understatement</b>                      | 19774                   | None               | Understatement of a noneconomic substance transaction.  | <ul style="list-style-type: none"> <li>• 40% of understatement.</li> <li>• Reduced to 20% if relevant facts adequately disclosed in the return.</li> </ul> |
|  |                         |                    | <b>Exceptions</b> - Chief Counsel relief.   |  |
| <b>Interest-Based Penalty for Listed Transactions, et al.</b>                | 19777                   | None               | Taxpayer contacted by FTB concerning an undisclosed reportable transaction, listed transaction, or a gross misstatement.  | 100% of the interest payable for the period beginning on the due date of the return and ending on the date the NPA is mailed.                              |
|  |                         |                    | <b>Exceptions</b> - None.   |  |

Franchise Tax Board  
Penalty Reference Chart

| Penalty Name   | R&TC Section | IRC Section   | Penalty Reason   | Computation  |
|--|--------------|---------------|--|--|
| Amnesty Program Interest Penalties   | 19777.5      | None          | An addition to tax for each tax year that was eligible for amnesty, but amnesty was not requested, and there was an unpaid amount due on March 31, 2005 (i.e., 50% Interest Based penalty). The penalty is also imposed where FTB mails a notice of proposed assessment or a notice of tax due or where a taxpayer self assesses additional tax for an amnesty eligible tax year after the end of the amnesty period (i.e., Post-Amnesty Penalty). | <ul style="list-style-type: none"> <li>The 50% Interest Based penalty is calculated as an amount equal to fifty percent of the interest that accrued on the unpaid daily balance from the original due date of the tax to March 31, 2005.</li> <li>The post-amnesty penalty is calculated as an amount equal to fifty percent of the interest computed on the additional amount from the original due date of the tax year to March 31, 2005.</li> </ul> |
|  |              |               | <b>Exceptions</b> - No claim for refund allowed except on the grounds that the penalty was not properly calculated.  |  |
| 150% Interest Penalty  | 19778        | None          | Amended return filed after April 15, 2004, but before taxpayer is contacted by FTB regarding a potentially abusive tax shelter.  | Interest accrues at a rate of 150% of the adjusted annual rate.  |
|  |              |               | <b>Exceptions</b> - None.  |  |
| Relief From Contract Voidability   | 23305.1      | None          | The period for which relief from voidability of the contract is granted.   | \$100 daily for each day of the period for which relief from voidability is granted, not to exceed a total penalty equal to the amount of the tax for the period for which relief is requested.  |
|  |              |               | <b>Exceptions</b> - None.  |  |
| Failure of Exempt Organizations and Trusts to File Annual Information Return | 23772        | 6033, 6072(e) | The period in which the exempt organization or trust fails to file a return after the date promised, after receiving a demand for a return from FTB.   | \$5 for each month or fraction thereof during which the failure to file a return continues, but the total amount imposed on any organization for the failure to file shall not exceed \$40 (\$25 for private foundation).  |
|  |              |               | <b>Exceptions</b> - Reasonable cause.  |  |
| Failure to Supply Information Penalty  | 25112        | None          | Taxpayer engaged in a unitary business that fails to supply requested information.   | <ul style="list-style-type: none"> <li>\$1,000 for each taxable year.</li> <li>Additional penalty of \$1,000 for each 30 days up to \$24,000 if failure continues for more than 90 days after we mail notice of failure to the taxpayer.</li> </ul>  |
|  |              |               | <b>Exceptions</b> - Reasonable cause.  |  |